

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

HOLLAND AMERICA, *et al.*,

Plaintiffs,

V.

WARTSILA NORTH AMERICA, INC., *et al.*,

## Defendants.

CASE NO. C04-1368RSM

**ORDER GRANTING MOTION  
FOR PARTIAL LIFT OF STAY**

This matter comes before the Court on defendant Wartsila North America, Inc.’s Motion for Partial Lift of Stay. (Dkt. #192). Defendants Bureau Veritas, S.A., Bureau Veritas (Canada) Inc., and Bureau Veritas North America, Inc., join in and support the motion. (Dkt. #193). Defendants alert the Court that a newly-discovered witness claims to have information relating to the fire at issue in this lawsuit. Defendants argue that there is a substantial risk they will be unable to obtain evidence from this witness, including a deposition, if discovery continues to be stayed while certain portions of this case are on appeal in the Ninth Circuit.

Plaintiffs oppose the motion in one conclusory paragraph, asserting that this Court should deny defendants' motion because, in a separate case, the Court has previously determined that plaintiff is not at fault for the fire, and because defendants have failed to identify the newly-discovered witness as required by Rule 26 of the Federal Rules of Civil Procedure. (Dkt. #194).

ORDER  
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While plaintiff argues that this Court should not grant defendants' motion because it has previously determined that plaintiff is not at fault for the fire at issue, plaintiff fails to provide any legal support for its unilateral assertion that the case to which it cites should prevent partial discovery in the instant case. Moreover, plaintiff fails to demonstrate how the current defendants, who were not parties to that limitation proceeding, are subject to any of the findings in that case.

Furthermore, plaintiff has failed to demonstrate any prejudice to their case through defendants' failure to identify the newly-discovered witness, or any prejudice to their case by allowing a partial lift of the stay currently in effect.

Accordingly, the Court hereby ORDERS:

(1) Defendants' Motion for Partial Lift of Stay (Dkt. #192) is GRANTED.

(2) The stay currently in effect in this case is modified to the extent that defendants shall be allowed to proceed with discovery pertaining to the newly-discovered witness discussed in the motion. However, this case remains STAYED in all other respects pending a decision by the Ninth Circuit Court of Appeals.

(3) The Clerk shall forward a copy of this Order to all counsel of record.

DATED this 14th day of October, 2005.

  
RICARDO S. MARTINEZ  
UNITED STATES DISTRICT JUDGE